



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

JUN 03 2015

John Belisle
231 Ten Mile Road
Lynden, WA 98264

Dear Mr. Belisle:

**Re: APPROVED Seasonal Change Authorization for Surface Water
Certificate (SWC) 4046, Whatcom County, Water Resources Inventory Area 1**

The Department of Ecology (Ecology) received your application for seasonal change on March 5, 2015. You published a legal notice in the Lynden Tribune on April 22, 2015 and April 29, 2015. No protests were received during the statutory 30 day protest period.

BACKGROUND INFORMATION

The above referenced certificate authorizes the diversion of 0.28 cubic feet per second (cfs) from Ten Mile Creek for the irrigation of 28 acres. This certificate was issued to Herbert S. Cole with a priority date of March 31, 1950. The authorized place of use is Whatcom County Parcels 390318162219, 390318183150, and 390318201262, located within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 39 North, Range 3 East. The authorized point of diversion is within the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 39 North, Range 3 East.

SWC 4046 is currently owned by you and Allen & Denise Haak. You provided a letter with your application that indicated that historically your farm has irrigated 28.5 acres of the 30 acre place of use. With the Haak's agreement, you are requesting to add Whatcom County Parcel number 390318062103, and remove Whatcom County Parcel number 390318201262 from the existing place of use of SWC 4046 for the upcoming 2015 irrigation season. You are not requesting to increase the authorized number of irrigated acres. The total allowable irrigated acres will remain at 28.

You have also requested to seasonally add an authorized point of withdrawal within the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 39 North, Range 3 East. This additional point of withdrawal (Well ID # BAT486) is shallow (20 feet deep), is in close proximity to the existing point of diversion, and is within the same subbasin (Ten Mile Creek watershed) as the original point of diversion. Therefore, it is within the same source of supply.



There are no intervening rights between the original point of diversion and the proposed additional point of withdrawal, so there will be no impairment of existing water users.

DEPARTMENT OF ECOLOGY DECISION – INCLUDING TERMS & CONDITIONS

Your request for a seasonal change in the place of use and for an additional point of withdrawal for the 2015 irrigation season is hereby **APPROVED** under the terms and conditions listed below.

- You are authorized to irrigate no more than 28 acres total within parcels 390318162219, 390318183150, and 390318062103, all within the SW¼ of Section 18, Township 39 North, Range 3 East.
- This seasonal change does not authorize an enlargement of the water use or total irrigated acres as described in SWC 4046. Irrigation of any lands removed from irrigation within the original place of use will constitute an enlargement of the right and will result in immediate cancellation of this authorization.
- The original point of diversion and the additional point of withdrawal shall be located within the SW¼ of Section 18, Township 39 North, Range 3 East.
- The authorized instantaneous rate cannot be exceeded at any time. The total rate of pumping from both points shall not exceed 0.28 cfs (125 gallons per minute).
- An approved measuring device shall be installed and maintained on the authorized point of diversion and the additional point of withdrawal in accordance with the rule “Requirements for Measuring and Reporting Water Use”, WAC 173-173. In order to ensure compliance with the terms of this authorization, water use data shall be recorded weekly and shall be promptly submitted to Ecology upon request.
- WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document titled “Water Measurement Device Installation and Operation Requirements”. See:
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
- This seasonal change is subject to existing rights, including any rights held by the United States for the benefit of tribes under treaty or settlement. Be ensuring no enlargement of the rate of water use or the number of irrigated acres, this seasonal change authorization should have not greater impact on tribal rights than the original authorization.
- If it can be shown that water use authorized by this seasonal change is causing impairment of existing rights or is being used illegally, then this authorization will be immediately canceled.

- This seasonal change shall be in effect through October 1, 2015 (unless canceled sooner); at which time the subject right will revert back to the original attributes described in SWC 4046.
- Violations of any of the terms and conditions of this seasonal change will result in this authorization being immediately canceled, issuance of administrative orders to cease and desist, and may also subject the violator to civil penalties.
- The Department of Ecology may field verify this seasonal change at any time for compliance with the terms and conditions of this authorization.

If you have any questions or concerns regarding this authorization, please contact Buck Smith at buck.smith@ecy.wa.gov or (425) 649-7147.

YOUR RIGHT TO BE HEARD

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do the following within 30 days of the date of receipt of this document.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608

For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>

John Belisle
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To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Signed at Bellevue, Washington, this 3rd Day of JUNE, 2015.



Thomas Buroker
Section Manager
Water Resources Program

tb/bs/mc

Enclosures: Your Right to be Heard

By Certified Mail: 9171 9690 0935 0088 4612 64